

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

FILE COPY

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

FREDERICK DICKINSON, D.O.
RESPONDENT

:
:
: FINAL DECISION AND ORDER
:

The parties to this action for the purposes of Wis. Stats. sec. 227.53 are:

Frederick Dickinson, D.O.
11731 West Underwood Parkway
Wauwatosa, Wisconsin 53226

State of Wisconsin
Medical Examining Board
P.O. Box 8935
Madison, Wisconsin 53708-8935

Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, Wisconsin 53708-8935

The parties in this matter, Frederick Dickinson, D.O., James M. Fergal, Attorney for Respondent, and Pamela M. Stach, Attorney for Complainant, agree to the terms and conditions of the attached Stipulation as final disposition of this matter, subject to approval of the Medical Examining Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Medical Examining Board adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. That Frederick Dickinson, Respondent herein, of 11731 West Underwood Parkway, Wauwatosa, Wisconsin 53226, is a doctor of osteopathy duly licensed and currently registered to practice medicine and surgery in the State of Wisconsin under license number 20729 which was granted on April 22, 1977.

2. That Respondent specialized in the area of obstetrics and gynecology.

3. That a formal Complaint against Respondent is currently pending before the Medical Examining Board.

4. That the Department of Regulation and Licensing currently has pending two investigative files involving allegations regarding Respondent's obstetrical practice.

5. That in August, 1990, Respondent voluntarily notified his patients that he would be discontinuing the practice of obstetrics as of February 1, 1991. The patients were transferred as appropriate and Respondent's obstetrical practice was terminated on February 1, 1991.

6. That from approximately April 17, 1984, through March 26, 1985, Respondent provided medical care and treatment for female patient M.D. whose date of birth is November 8, 1951.

7. That on April 17, 1984, patient M.D. presented at Respondent's office with subjective complaints of severe cramping, ten day menstrual periods, a fifteen pound weight loss and diarrhea over a period of one year. Respondent diagnosed cramping dysmenorrhea and recommended a laparoscopy and dilation and curettage.

8. On April 25, 1984, Respondent performed a dilation and curettage and laparoscopy with excision of bilateral hydatid cysts, cautery of multiple endometrial implants, and lysis of right tubo-ovarian adhesions on patient M.D.

9. Subsequent to the surgical procedures of April 25, 1984, patient M.D. complained of irregularity of menses and amenorrhea.

10. On October 26, 1984, patient M.D. contacted Respondent by telephone and complained of amenorrhea with a last menstrual period of September 11, 1984. Respondent prescribed Provera 10mg. tablets for patient M.D. on that date.

11. Provera is a prescription drug containing medroxyprogesterone acetate and is indicated for use in treatment of secondary amenorrhea. Provera is contraindicated for patients in the first four months of pregnancy due to risks of potential harm to the fetus.

12. In early January of 1985, patient M.D. contacted Respondent by telephone and indicated she had spotted on January 1, 1985, and had never menstruated in December, 1984. She further advised him of fever, chills, and vomiting which occurred on December 14, 1984. Respondent advised patient M.D. to wait an additional two weeks for her menses and to contact him if she did not menstruate.

13. On January 21, 1985, patient M.D. contacted Respondent by telephone and stated she had constant nausea and felt bloated. Respondent prescribed Provera to induce menses.

14. Patient M.D. did not fill the prescription for Provera at that time.

15. On January 28, 1985, patient M.D. contacted Respondent by telephone and indicated that she had still not menstruated. Respondent prescribed Provera on that date.

16. Patient M.D. filled the prescription and took the medication as prescribed.

17. On February 19, 1985, patient M.D. contacted Respondent by telephone and stated that she still had not menstruated after taking the Provera. She advised Respondent that she had premenstrual symptomatology within the previous week but had not menstruated. Respondent prescribed Norlutate for induction of menses.

18. Norlutate is a prescription drug containing norethindrone acetate and is indicated for use in treatment of amenorrhea. Norlutate is contraindicated for patients in the first four months of pregnancy due to risks of potential harm to the fetus.

19. On February 20, 1985, patient M.D. suffered severe abdominal pain and contacted her family physician For an appointment.

20. On February 20, 1985, patient M.D. was examined by her family physician who inquired whether the patient might be pregnant.

21. Between February 21, 1985 and February 28, 1985, patient M.D. experienced severe, sharp pains in her abdomen and partial vision loss lasting for approximately 45 minutes. The patient also noted that she was feeling bloated and that her clothing was tight.

22. On March 19, 1985, patient M.D. experienced chills, nausea and fever. She also vomited heavily on that date.

23. On March 22, 1985, patient M.D. presented at Respondent's office for a pelvic examination.

24. Upon examination, Respondent noted subjective complaints of nausea, fever and chills with a sensation of bloating and clothes becoming tight. Upon physical examination Respondent noted an abdominal mass of a size compatible with a 3 1/2 to 4 month pregnancy.

25. Respondent diagnosed cervicitis, amenorrhea, anovulation and a probable large right ovarian cyst. He recommended a pelvic ultrasound to determine if the right ovarian cyst would be operable.

26. On March 25, 1985, patient M.D. was advised by Respondent that the ultrasound revealed a pregnancy of approximately 17 weeks gestation.

27. On March 28, 1985, patient M.D. had the pregnancy terminated due to concerns over risks of fetal abnormalities from the ingestion of the Provera and Norlutate.

28. Respondent failed to determine whether patient M.D. was pregnant prior to prescribing Provera in January 1985, and Norlutate in February 1985.

29. Respondent failed to diagnose patient M.D.'s pregnancy when presented with the patient's subjective complaints and upon performance of a pelvic examination on March 22, 1985.

30. Respondent's conduct in prescribing Provera and Norlutate for patient M.D. while she was pregnant created the unacceptable risks of fetal abnormalities.

CONCLUSIONS OF LAW

1. The Medical Examining Board has jurisdiction in this disciplinary proceeding pursuant to Wis. Stats. sec. 448.02.

2. The Medical Examining Board had the authority to resolve this disciplinary proceeding by stipulation without commencing a formal disciplinary hearing pursuant to Wis. Stats. Sec. 227.44(5).

3. Respondent conduct as herein described constitutes a violation of Wis. Stats. Sec. 448.02(3) and Wis. Adm. Code sec. Med 10.02(2)(h) as defined in Gilbert v. State of Wisconsin 119 Wis. 2d 168 (1984).

ORDER

NOW THEREFORE IT IS ORDERED that the Stipulation of the parties is accepted.

IT IS FURTHER ORDERED that the license of Frederick Dickinson, D.O., to practice medicine and surgery in the State of Wisconsin is hereby limited by the following terms and conditions.

a. The terms and conditions of this stipulation are permanent unless otherwise indicated.

b. Respondent shall not engage in the practice of obstetrics, including, but not limited to, prenatal care, intrapartum care and postpartum care.

c. Respondent shall immediately refer to another licensed physician any patient who notifies Respondent that she is pregnant or whom Respondent diagnoses as pregnant.

d. Respondent shall, within one year of the effective date of this Order, provide evidence to the Medical Examining Board that he has successfully completed a continuing medical education course in the area of gynecology. Such course is to include instruction in the current methods of diagnosis and treatment of amenorrhea, including the appropriate use of medroxyprogesterone acetate and norethindrone acetate and other agents to induce menses.

e. Respondent agrees to pay to the Department of Regulation and Licensing the expert witness fees accrued in this matter in the amount of \$787.50.

f. In the event Respondent wishes to resume the practice of obstetrics, in the future, he shall appear before the Medical Examining Board and satisfy the Board as to his competency at that time to practice in that specialty area. The Board may, at its option, review any previous or pending investigative files, including those files which are the subject of this Order, in considering Respondent's petition.

g. Denial of any petition submitted under paragraph f above shall not constitute a denial of a license within the meaning of Wis. Stats. sec. 227.01(2) (a).

IT IS FURTHER ORDERED that pursuant to the authority of Wis. Stats. Sec. 448.02(4), should the Medical Examining Board determine that there is probable cause to believe that Respondent has violated the terms of this Order, the Board may order that Respondent's license be summarily suspended pending Investigation Of the alleged violations.

IT IS FURTHER ORDERED that investigative files 86 Med 116 and 89 Med 552 are hereby closed and no further action will be taken on the allegations contained in those files, unless Respondent violates the terms of this Order, at which time, at the discretion of the Board, the files may be reopened and further action taken as appropriate.

Dated this 21 day of February 1991.

Michael P. Mehr
Michael P. Mehr, Secretary
Medical Examining Board

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

FREDERICK DICKINSON, D.O.
RESPONDENT

:
:
STIPULATION
:

It is hereby stipulated between Frederick Dickinson, D.O., personally and by his attorney, James M. Fergal, and Pamela M. Stach, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows:

1. That Frederick Dickinson, Respondent herein, of 11731 West Underwood Parkway, Wauwatosa, Wisconsin 53226, is a doctor of osteopathy duly licensed and currently registered to practice medicine and surgery in the State of Wisconsin under license number 20729 which was granted on April 22, 1977.

2. That Respondent specialized in the area of obstetrics and gynecology.

3. That there are pending investigations, contained in investigative files 86 Med 116 and 89 Med 552, against Respondent involving allegations of inappropriate obstetrical care.

4. That a complaint was filed against and duly served upon Respondent on December 29, 1989.

5. That Respondent has read the complaint and has been advised of the nature of the allegations in the pending investigations.

6. That Respondent is aware of and understands each of the Respondent's rights, including the right to a hearing on the allegations against him at which time the State has the burden of proving these allegations by clear, satisfactory and convincing evidence; the right to confront and cross-examine witnesses against him; the right to call witnesses in his behalf and to compel their attendance by subpoena; that right to testify himself; the right to file objections to any proposed decisions and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing and all of the rights afforded the Respondent under the United States Constitution, the Wisconsin Constitution and the Wisconsin Administrative Code.

7. That Respondent freely, voluntarily and knowingly waives each and every one of the rights set forth in paragraph six above.

8. That for the purpose of this Stipulation only, Respondent withdraws his previously filed answer with regard to the Complaint and, while neither admitting nor denying the allegations, agrees to entry of the attached Final Decision and Order by the Medical Examining Board.

9. That subsequent to the filing of the complaint in this matter, Respondent announced his intention, in August of 1990, to voluntarily discontinue his practice in the area of obstetrics. His patients were notified and transferred as appropriate and his obstetrical practice was terminated on February 1, 1991.

10. That in consideration of the facts and agreements as set forth above, Complainant hereby requests the Medical Examining Board close all pending investigative files relating to Respondent which are not the subject of the complaint including 86 Med 116 and 89 Med 552.

11. That this agreement in no way prohibits the Medical Examining Board from any further action against Respondent based on any acts not alleged in the present complaint or any investigative file pending as of the effective date of any order adopting this stipulation, which might be violative of the Wisconsin Medical Examining Board statutes and rules.

12. The parties agree to waive the proposed Decision of the Administrative Law Judge and submit this stipulation directly to the Medical Examining Board. All parties hereto agree that counsel for the parties may appear before the Board, along with the board advisor, to argue on behalf of acceptance of this stipulation.

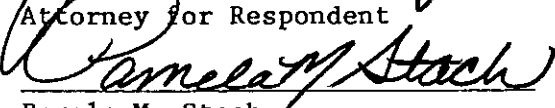
13. This Stipulation and Final Decision and Order, if adopted and entered by the Medical Examining Board, shall become effective thirty days from the date of the Order.

14. That in the event any term or condition of this Stipulation and Final Decision and Order is not accepted or entered by the Medical Examining Board, then no term of this Stipulation or Order shall be binding in any manner on any party.

Dated: 2/14/91


Dated: 2/18/91


James M. Fergal
Attorney for Respondent


Pamela M. Stach
Attorney for the Department of
Regulation and Licensing

I, Frederick Dickinson, D.O., having read the above Stipulation and having discussed its contents with my attorney and understanding its terms, do hereby, freely and voluntarily, enter into the Stipulation.

Dated: 2-14-91


Frederick Dickinson, D.O.
Respondent

NOTICE OF APPEAL INFORMATION

(Notice of Rights for Rehearing or Judicial Review,
the times allowed for each and the identification
of the party to be named as respondent)

The following notice is served on you as part of the final decision:

1. Rehearing.

Any person aggrieved by this order may petition for a rehearing within 20 days of the service of this decision, as provided in section 227.49 of the Wisconsin Statutes, a copy of which is attached. The 20 day period commences the day after personal service or mailing of this decision. (The date of mailing of this decision is shown below.) The petition for rehearing should be filed with the State of Wisconsin Medical Examining Board.

A petition for rehearing is not a prerequisite for appeal directly to circuit court through a petition for judicial review.

2. Judicial Review.

Any person aggrieved by this decision has a right to petition for judicial review of this decision as provided in section 227.53 of the Wisconsin Statutes, a copy of which is attached. The petition should be filed in circuit court and served upon the State of Wisconsin Medical Examining Board.

within 30 days of service of this decision if there has been no petition for rehearing, or within 30 days of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30 day period commences the day after personal service or mailing of the decision or order, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing of this decision is shown below.) A petition for judicial review should be served upon, and name as the respondent, the following: the State of Wisconsin Medical Examining Board.

The date of mailing of this decision is February 28, 1991.

WLD:dms
886-490

227.49 Petitions for rehearing in contested cases. (1) A petition for rehearing shall not be a prerequisite for appeal or review. Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition for rehearing which shall specify in detail the grounds for the relief sought and supporting authorities. An agency may order a rehearing on its own motion within 20 days after service of a final order. This subsection does not apply to s. 17.025 (3) (c). No agency is required to conduct more than one rehearing based on a petition for rehearing filed under this subsection in any contested case.

(2) The filing of a petition for rehearing shall not suspend or delay the effective date of the order, and the order shall take effect on the date fixed by the agency and shall continue in effect unless the petition is granted or until the order is superseded, modified, or set aside as provided by law.

(3) Rehearing will be granted only on the basis of:

(a) Some material error of law.

(b) Some material error of fact.

(c) The discovery of new evidence sufficiently strong to reverse or modify the order, and which could not have been previously discovered by due diligence.

(4) Copies of petitions for rehearing shall be served on all parties of record. Parties may file replies to the petition.

(5) The agency may order a rehearing or enter an order with reference to the petition without a hearing, and shall dispose of the petition within 30 days after it is filed. If the agency does not enter an order disposing of the petition within the 30-day period, the petition shall be deemed to have been denied as of the expiration of the 30-day period.

(6) Upon granting a rehearing, the agency shall set the matter for further proceedings as soon as practicable. Proceedings upon rehearing shall conform as nearly may be to the proceedings in an original hearing except as the agency may otherwise direct. If in the agency's judgment, after such rehearing it appears that the original decision, order or determination is in any respect unlawful or unreasonable, the agency may reverse, change, modify or suspend the same accordingly. Any decision, order or determination made after such rehearing reversing, changing, modifying or suspending the original determination shall have the same force and effect as an original decision, order or determination.

227.52 Judicial review; decisions reviewable. Administrative decisions which adversely affect the substantial interests of any person, whether by action or inaction, whether affirmative or negative in form, are subject to review as provided in this chapter, except for the decisions of the department of revenue other than decisions relating to alcohol beverage permits issued under ch. 125, decisions of the department of employee trust funds, the commissioner of banking, the commissioner of credit unions, the commissioner of savings and loan, the board of state canvassers and those decisions of the department of industry, labor and human relations which are subject to review, prior to any judicial review, by the labor and industry review commission, and except as otherwise provided by law.

227.53 Parties and proceedings for review. (1) Except as otherwise specifically provided by law, any person aggrieved by a decision specified in s. 227.52 shall be entitled to judicial review thereof as provided in this chapter.

(a) Proceedings for review shall be instituted by serving a petition therefor personally or by certified mail upon the agency or one of its officials, and filing the petition in the office of the clerk of the circuit court for the county where the judicial review proceedings are to be held. Unless a rehearing is requested under s. 227.49, petitions for review under this paragraph shall be served and filed within 30 days after the service of the decision of the agency upon all parties under s. 227.48. If a rehearing is requested under s. 227.49, any party desiring judicial review shall serve and file a petition for review within 30 days after service of the order finally

disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. The 30-day period for serving and filing a petition under this paragraph commences on the day after personal service or mailing of the decision by the agency. If the petitioner is a resident, the proceedings shall be held in the circuit court for the county where the petitioner resides, except that if the petitioner is an agency, the proceedings shall be in the circuit court for the county where the respondent resides and except as provided in ss. 77.59 (6) (b), 182.70 (6) and 182.71 (5) (g). The proceedings shall be in the circuit court for Dane county if the petitioner is a nonresident. If all parties stipulate and the court to which the parties desire to transfer the proceedings agrees, the proceedings may be held in the county designated by the parties. If 2 or more petitions for review of the same decision are filed in different counties, the circuit judge for the county in which a petition for review of the decision was first filed shall determine the venue for judicial review of the decision, and shall order transfer or consolidation where appropriate.

(b) The petition shall state the nature of the petitioner's interest, the facts showing that petitioner is a person aggrieved by the decision, and the grounds specified in s. 227.57 upon which petitioner contends that the decision should be reversed or modified. The petition may be amended, by leave of court, though the time for serving the same has expired. The petition shall be entitled in the name of the person serving it as petitioner and the name of the agency whose decision is sought to be reviewed as respondent, except that in petitions for review of decisions of the following agencies, the latter agency specified shall be the named respondent:

1. The tax appeals commission, the department of revenue.

2. The banking review board or the consumer credit review board, the commissioner of banking.

3. The credit union review board, the commissioner of credit unions.

4. The savings and loan review board, the commissioner of savings and loan, except if the petitioner is the commissioner of savings and loan, the prevailing parties before the savings and loan review board shall be the named respondents.

(c) Copies of the petition shall be served, personally or by certified mail, or, when service is timely admitted in writing, by first class mail, not later than 30 days after the institution of the proceeding, upon all parties who appeared before the agency in the proceeding in which the order sought to be reviewed was made.

(d) The agency (except in the case of the tax appeals commission and the banking review board, the consumer credit review board, the credit union review board, and the savings and loan review board) and all parties to the proceeding before it, shall have the right to participate in the proceedings for review. The court may permit other interested persons to intervene. Any person petitioning the court to intervene shall serve a copy of the petition on each party who appeared before the agency and any additional parties to the judicial review at least 5 days prior to the date set for hearing on the petition.

(2) Every person served with the petition for review as provided in this section and who desires to participate in the proceedings for review thereby instituted shall serve upon the petitioner, within 20 days after service of the petition upon such person, a notice of appearance clearly stating the person's position with reference to each material allegation in the petition and to the affirmance, vacation or modification of the order or decision under review. Such notice, other than by the named respondent, shall also be served on the named respondent and the attorney general, and shall be filed, together with proof of required service thereof, with the clerk of the reviewing court within 10 days after such service. Service of all subsequent papers or notices in such proceeding need be made only upon the petitioner and such other persons as have served and filed the notice as provided in this subsection or have been permitted to intervene in said proceeding, as parties thereto, by order of the reviewing court.